



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

February 22, 2023

BY ECF

The Honorable Vernon S. Broderick
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square, Courtroom 518
New York, New York 10007

Re: *United States v. Sayfullo Habibullaevic Saipov*, S1 17 Cr. 722 (VSB)

Dear Judge Broderick:

The Government writes to request the Court provide an instruction to the defense family witnesses consistent with that given to the victim impact witnesses. In addition, the Government provides a proposed instruction to the jury to strike extraneous testimony regarding a victim's son turning age 25.

Proposed Instruction to Family Witnesses¹

So, first, to the folks who are in the gallery who are going to be witnesses, as some of you know, my name is Judge Broderick. I am presiding over this trial.

¹ The Court instructed the victim witnesses as follows (Tr. 2010–11):

So, first, to the folks who are in the gallery who are going to be witnesses, as some of you know, my name is Judge Broderick. I am presiding over this trial.

You are scheduled to testify later today, and I anticipate that the testimony may be understandably emotional for you. I am speaking to you now to let you know that if you feel like you are going to get too emotional to continue your testimony, please let me know by asking to take a break. I will then take a break and send the jury back to the jury room. We will continue your testimony once you feel that you are able to continue.

There is no issue with taking such a break, and all the parties want to make sure that the jury is able to understand your testimony. Please also remember that during your testimony you may not comment on or about Mr. Saipov or share your feelings or thoughts about him, his family, the crime, the appropriate punishment, or what you want the jury to do in this case.

You may not address Mr. Saipov directly.

² During his testimony yesterday, Ivan Brajkovic stated regarding victim Ariel Erlij: “While this was not a religious matter or anything he did tell me that, ‘You know, I want you to be my first son’s godfather,’ who by the way would be -- today he would turn 25.” (Tr. 2669).